

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2926 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KANUBHAI DAHYABHAI PATEL

Versus

SENIOR OFFICER & NOTIFIED AREA OFFICER, G.I.D.C.

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Appearance:

MR KM SHETH for Petitioner

MS SANGITA for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/12/97

C.A.V. JUDGEMENT

1. The petitioner is challenging by this special civil application, the order of the respondent, Senior Officer and Notified Area Officer, G.I.D.C., Viththal Udhyog Nagar, Anand dated 25th May, 1987, under which the petitioner was ordered to be relieved from 22-5-1987 after office hours.

2. The facts of the case, in brief, are that the agricultural lands of the petitioner as detailed in para-2 of the special civil application, were acquired by

the State Government for Gujarat Industrial Development Corporation at Ahmedabad for industrial development. The petitioner under the category of land loser applied to the Corporation for giving him the employment. That employment has been claimed by the petitioner on the basis of the policy of the State Government and that of the Corporation to give the employment to the land losers as per their qualification. Under the order dated 5th June, 1984, annexure 'E' on record of this special civil application, the petitioner was given the appointment as Clerk on adhoc basis for the staff of Notified Area for one month and on the terms and conditions as provided therein. This appointment came to be terminated by the respondents on 30th October, 1984. Then the petitioner made a representation to the Corporation and then to the Hon'ble Chief Minister of the State for giving him the employment in the Corporation under the category of land loser. The petitioner was given the appointment on 6th February, 1987 as Water Boy and copy of this order is produced on the record of this special civil application as annexure 'N'. That appointment was given only for 29 days. Under the order annexure 'P' impugned in this special civil application, the petitioner was relieved from 22-5-1987. Hence, this special civil application.

3. The respondents have filed reply to this special civil application and contested the claim of the petitioner. The respondents have filed three sets of reply in this special civil application.

4. The learned counsel for the petitioner contended that the action of the respondents not to give the appointment to the petitioner with reference to his qualification is highly arbitrary and unjustified. The petitioner is a land loser and as such as per the policy laid down by the State Government and the Corporation he should have been given the appointment. Though the appointments have been given to the petitioner but first time only adhoc appointment has been given and his services have been terminated and then he was given the appointment as Water Boy only for 29 days and that appointment has also been terminated. Instead of giving the appointment to the petitioner of the nature of adhoc or fixed term appointment, he should have been given the permanent appointment.

5. On the other hand, the counsel for the respondents contended that no legal or fundamental right of the petitioner is infringed. There is no policy of the State Government and the Corporation to give any appointment to the petitioner as land loser. What the

respondents' counsel contended that only policy of the Corporation is that where the land is allotted to a person, of the area exceeding 20,000 sq. mts. for setting up an industry then preferential claim may be given to the land loser in employment by that person. It has next been contended that the petitioner's candidature has been considered for giving him the appointment as Clerk but he was not found suitable on merits.

6. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

7. The petitioner has not produced on record of this special civil application any policy of the State Government or Corporation which provides for giving the appointments to the land losers in the Corporation. The Corporation has also not produced on the record, any of its policies which provide for giving of the employment to land losers on preferential basis in the industries where the land has been allotted to the allottee exceeding 20,000 sq. mts.. In the first affidavit filed by the respondents, I find that the respondents have come up with a case that it is a policy of the Corporation to give preference to the land losers by giving appointments in the Corporation. In the last affidavit, this admission has been sought to be explained that the policy of the Corporation is to see that such land losers are given preferential treatment by allottee-industries which are being set up in the industrial area developed by the Corporation, if the land being allotted to the allottee-industry exceeds 20,000 sq. mts..

8. The petitioner has not filed any rejoinder to the replies filed by the respondent-Corporation.

9. From the judgment of this Court given in Special Civil Application No.8481/89 decided on 12-4-1991 I find that the policy of the Corporation was what it is pleaded in the last affidavit by the Corporation. The petitioner has not produced on the record of this special civil application, as observed earlier, any of the policies of the State Government or of the Corporation where it is laid down to give the appointments to the land losers. In view of the last affidavit of the Corporation and the judgment of this Court aforesaid I am satisfied that the Corporation has only provided that the industries which have been allotted the land exceeding 20,000 sq. mts. for establishing thereof will give the preferential claim in the employment to the land losers. That policy has been considered by this Court in special civil application No.8481/89 decided on 12-4-1991 (supra) and

this Court has held that the aforesaid policy (therein it is referred as circular) does not confer any right whatsoever on ex-land owners vis-a-vis Corporation. The Corporation has, what this Court has held, merely provided for generation of employment by imposing a condition on the allottee, to give preferential employment to the ex-land owners, upon the stipulated conditions being satisfied. This Court has further held that even it is assumed that the ex-land owner has a right to preferential employment, such right is not available as against the Corporation. That condition imposed by the Corporation has also been held to be not valid. I am in full agreement with the decision given by this Court in the aforesaid case.

10. Otherwise also, the petitioner has no case whatsoever in his favour. The appointment under the order annexure 'E' dated 5-6-1984 was not given to the petitioner as he was a land loser. It was only an adhoc appointment given to the petitioner for one month though it is different matter that it was continued for few months more. His services were terminated on 31st October, 1984 and that termination has not been challenged by the petitioner. Thereafter under the order annexure 'N', the petitioner has been given the appointment as Water Boy only for 29 days and that appointment has also been continued for few more months but it has come to an end on 22nd May, 1984. In the reply, the respondents have come up with a case that the post of Water Boy was sanctioned only for six months and as such this appointment could not have been continued. I do not find any illegality in the order annexure 'P' under which the petitioner was relieved from 22nd May, 1984. It was a fixed term appointment and the post was also for a fixed term. When the post has not been given any sanction, no illegality has been committed by the Corporation to relieve the petitioner. The petitioner has not acquired any right to the post merely because he has worked for few months. This appointment was given only for 29 days initially. The petitioner's case for permanent employment has been considered but it is different matter that he could not stand to merits. So the petitioner has only a right of consideration for appointment in the Corporation, which right has not been denied to him.

11. Taking into consideration the totality of the facts of this case, I do not find any merits in this special civil application and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

